

ONE HUNDRED THIRD LEGISLATURE - FIRST SESSION - 2013
COMMITTEE STATEMENT
LB406

Hearing Date: Thursday February 07, 2013
Committee On: Revenue
Introducer: McCoy
One Liner: Change tax provisions

Roll Call Vote - Final Committee Action:
Indefinitely postponed

Vote Results:

Aye: 8 Senators Hadley, Hansen, Harr, Janssen, McCoy, Pirsch, Schumacher, Sullivan
Nay:
Absent:
Present Not Voting:

Proponents:

Senator Beau McCoy
Gov. Dave Heineman
Doug Ewald
Floyd Zabel

Representing:

Introducer
Governor of the State of Nebraska
NE Dept. of Revenue
Nebraskans For Fair Tax

Opponents:

John Cederberg
Dirk Petersen
Doyle Hopper
Steve Wellman
Bob Hallstrom

Representing:

NE Chamber of Commerce and Industry
Nucor Corp.
Nucor Corp.
NE Soybean Assoc.
NE Bankers Assoc./ NE Pharmacists Assoc./ National Federation of Independent Businesses
Phillips Manufacturing Co.
Children's Hospital and Medical Center/ Alegent Creighton Health/ Bryan Health/ Friends of NE Non-Profit Hospitals
Voices for Children in NE
NE Farm Bureau
Community Action of NE
NE Power Assoc.
NE Hospital Assoc./ NE Retail Assoc./ NE Restaurant Assoc.
Self
NE Farmers Union
NE Assoc. of Public Employees
NE Appleseed
NE Corn Growers Assoc.
Self
Open Sky Policy Institute

George Kubat
Kathy English

Carolyn Rooker
Myles Ramsey
Roger Furrer
Laura Kapustka
Bruce Rieker

Tim Kelliher
John Hansen
Cassy Fogale
Rebecca Gould
Scott Merritt
David Grimes
Renee Fry

Loran Schmit
Kent Knoll
Bill Mueller
Stan Keiser
Kelsey Liddy
Ed Woeppel
Pete McClymont
Doug Temme
Roger Prochaska

Assoc. of NE Ethanol Producers
Omaha Steaks International, Inc.
NE Methodist Health System
Self
Center for People in Need
NE Cooperative Council
NE Cattlemen
NE State Dairy Assoc.
Self

Neutral:

Jason Hayes

Representing:

NSEA

Summary of purpose and/or changes:

This bill is summarized in four sections:

Section I: Sales and Use Tax Exemptions That Are Repealed

Section II: Other Sales and Use Tax Changes

Section III: Corporation Income Tax Repealed

Section IV: Changes to Nebraska Tax Incentive Programs

Each major provision of the bill is addressed and noted by its page number in the bill. The first section is a table listing the sales tax exemptions that are repealed, the specific statutory reference from the bill, and the page location in the bill.

Section 28, page 68, lists those provisions that are repealed by statutory reference only and are listed as "Outright Repeal." Other provisions effecting sales and use tax are described in Section II.

Section III repeals the corporation income and financial institutions tax for tax years beginning or deemed to begin on or after January 1, 2014. The various filing requirements for the taxes are repealed. Both refundable and nonrefundable credits against the various taxes are repealed for the same tax years or limited in application to other taxes such as sales and use tax. Repeals the Earned Income Tax Credit.

Changes to Nebraska's tax incentive programs are summarized in Section IV. Please note that these changes apply to applications filed after the effective date of the bill.

Section 25, 67, provides that sections 2, 3, 6, 7, 8, 9, 27, and 28 become operative on October 1, 2013. Other sections become operative on their effective dates as specified in the bill.

SECTION I: SALES AND USE TAX EXEMPTIONS REPEALED

EXEMPTION DESCRIPTION

Special Tractor Exemption through Tractor Testing Center(2-2701-2711)

Aviation Fuel (3-149)

Repair labor on aircraft & 10 day rule exemption 2704.26 and 2701.16(4)

Occasional sale exemption for sales of certain business or farm machinery & equipment 2701.24(3)

Manufacturing Machinery & Equipment/Related Services 2704.22-Retained except for Molds & Dies

Agricultural Machinery & Equipment 2704.36

Occasional sale exemption for sales made by Religious Organizations 2701.24(4)

Renting or furnishing rooms for less than 30 days by Health Care Facilities Rooms 2701.33(2)

Renting or furnishing rooms for less than 30 days by Educational Institutions 2701.33(2)-(3)

Sale for resale exemption for containers 2701.34(1); new definition of "containers" 2701.34(2)-Outright Repeal and Page 8

Exemption from "sales price" for AV fuel tax 2701.35(3)(c)

Exclusion from "storage" definition for Ingredient & Component Parts 2701.37; Exclusion from "use" definition for Ingredient & Component Parts 2701.42

Bundled transaction exclusion for Rx drugs, durable medical, mobility enhancing, OTC drugs, prosthetic devices & med supplies 2701.48(5)-Repealed except for Rx drugs
Page 12-115

Purchases made by religious orgs, nonprofit for the blind, nonprofit private schools, hospitals, skilled nursing, intermediate care for mentally retarded, assisted living, nursing facilities, home health, hospice or hospice services, respite care services, nonprofit child care, child placement or any nonprofit for developmentally disabled 2704.12(1)

Ag chemicals used for animal life 2704.41(1)-Repealed Page 16

Seeds & plants for human consumption 2704.46(2)-Repealed Page 17

Ag chemicals used in commercial ag (not chemicals used on harvested grains stored in commercial elevators) 2704.46(3)-Repealed Page 17-18

Oxygen used in ag 2704.46(4)-Repealed Page 18

Tax-free inventory for multistate businesses engaged as common or contract carriers 2706(6)

Refund of tax paid on depreciable repairs or parts for agricultural machinery or equipment 2708.01

Definition of Manufacturing 2701.46

Definition of Manufacturing M&E 2701.47(1)-(2)-Retained except for molds and dies
Page 8, 9

Aircraft Fuel 2704.03

Minerals, Oil & Gas Extraction 2704.04

Lease/Purchase Agreements 2704.08

Insulin; prescription drugs; mobility enhancing equipment; medical equipment; home medical supplies; prosthetic devices; oxygen; and oxygen equipment. 2704.09-Repealed except for insulin and prescription drugs

Goods sold in NE but shipped outside the state 2704.11

Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in irrigation or farming 2704.13(1)-Repealed Page 15

Electricity, coal, gas, fuel oil, diesel fuel, tractor fuel, propane, gasoline, coke, nuclear fuel, butane, wood and corn as fuel used directly in processing, manufacturing, refining, generation of electricity or by any hospital. 2704.13(2)-Repealed Page 15-16

Sales and purchases of water used for irrigation of agricultural lands and manufacturing purposes 2704.13(3)

Bull Semen 2704.23

R.R.Rolling Stock materials, replacement parts & any associated labor 2704.27 & 2704.50-Outright Repeal

Mold, dies & patterns 2704.40-Outright Repeal

M&E for other States with a Reciprocal Agreement 2704.43

Ingredient/Component Part including specified services 2704.45

Containers 2704.47-Outright Repeal

Mineral oil applied to grain as dust suppressant 2704.60

Definition of Data Center/Data Center Exemption 2701.54/2704.62

Biochips 2704.61

SECTION II: OTHER SALES AND USE TAX CHANGES

Page 3 forward

Eliminates requirement to report on specific exemptions in the tax expenditure report that are now repealed.

SECTION III: INCOME AND OTHER RELATED TAXES THAT ARE REPEALED

Page 3

Decouples the R&D credit from federal rules

Section 1 Statute 49-801.01 (Exceptions to IRC conformity)

Statute 77-5804 now excluded from conformity

Page 19

Eliminates the Earned Income Tax Credit 77-2715.07 (2)(e)

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act. For taxable years beginning or deemed to begin before January 1, 2014, under the Internal Revenue Code of 1986, as amended, a refundable credit for individuals who qualify for an income tax credit under the Nebraska Advantage Research and Development Act.

Page 19-20

Retains the refundable R&D credit for individuals and converts it to a nonrefundable credit.

(3) There shall be allowed to all individuals as a nonrefundable credit against the income tax imposed by the Nebraska Revenue Act of 1967:

(d) A refundable credit for individuals who qualify for an income tax credit under the Angel Investment Tax Credit Act For taxable years beginning or deemed to begin before January 1, 2014, under the Internal Revenue Code of 1986, as amended, a refundable credit for individuals who qualify for an income tax credit under the Nebraska Advantage Research and Development Act.

(e) For taxable years beginning or deemed to begin on or after January 1, 2014, under the Internal Revenue Code of 1986, as amended, a credit as provided in the Nebraska Advantage Research and Development Act.

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Repeals individual income tax on certain types of retirement income up to a cap of \$12,000 for married filing joint returns and \$6,000 for all other returns.

(13)(a) For taxable years beginning or deemed to begin on or after January 1, 2014, under the Internal Revenue Code of 1986, as amended, and subject to the limitations in subdivision (b) of this subsection, federal adjusted gross income shall be reduced by the amount included in federal adjusted gross income pursuant to the provisions of sections 402(a), 402(c), 403(a), 403(b), 406(a), 407(a), and 408 of the Internal Revenue Code of 1986, as amended, or included in federal adjusted gross income as distributions under the provisions of any retirement or disability plan for employees of any governmental agency or unit, or retirement payments to retired partners, which payments are excluded in computing net earnings from self-employment by section 1402 of the Internal Revenue Code of 1986, as amended. (b) The reduction provided in this subsection shall be limited to (i) twelve thousand dollars for a married filing jointly return or (ii) six thousand dollars for any other return.

I.R.C. Statute 402(a): Refers to distributions under Statute 401(a) which includes qualified pension, profit-sharing, and stock bonus plans;

Statute 402(c): Applies to qualified rollovers from accounts described in Statute 401(a);

Statute 403(a): Employee annuities;

Statute 403(b): Employee annuities from 501(c)(3) organizations and public schools;

Statute 406(a): Employees of foreign affiliates;

Statute 407(a): Employees of domestic subsidiaries engaged in business outside of the United States; and

Statute 408: Individual Retirement Accounts

*Note that there is no reference to the Social Security Act or Social Security income, which would not be covered by the bill language. It is unclear whether this would apply to military retirement benefits and to which "governmental" agencies or units it would apply.

Similar bills heard to exempt both types of income included specific references to the Social Security Act or provided definitions of military retirement, such as "Military retirement benefit means retirement benefits that are periodic payments attributable to service in the uniformed or civilian services of the United States Department of Defense for personal services performed by an individual prior to his or her retirement."

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Repeals the corporation income tax for taxable years beginning or deemed to begin on or after July 1, 2014. Repeals the filing requirement for such corporations accordingly, including the filing of an amended return as currently required.

Page 33

Repeals the R&D refundable credit for corporate taxpayers and converts it to a nonrefundable credit.

Page 37

Repeals the tax on financial institutions (i.e. deposits tax) for taxable years beginning or deemed to begin on or after July 1, 2014. Repeals the filing requirement for such companies accordingly.

SECTION IV: CHANGES TO TAX INCENTIVE PROGRAMS

Page 39 forward

NE Advantage Changes for Applications Filed After Operative Date of Bill:

Entitlement period reduced from nine (9) to four (4) years for all tiers;

Must meet required levels before end of fourth year after year of application (certain Tiers had longer qualification periods);

Reduces credit from ten (10) to five (5) percent of the investment made in qualified property except for tier 3 or tier 5 projects which never received this credit;

Carryover period reduced from nine (9) to five (5) years past the end of the entitlement period for all tiers

Recapture provisions kick in at end of fourth year after the end of the year of application (some tiers had longer periods);

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Clarifies the availability of R&D credits:

For taxable years beginning or deemed to begin before January 1, 2014, allows use of credits to obtain sales and use tax refunds, to offset income tax liability or to obtain refund on income tax;

For taxable years beginning or deemed to begin on or after January 1, 2014, allows use of credits to obtain sales and use tax refunds or to offset income tax liability. Credits may be carried over for five (5) years or until fully utilized, whichever occurs first.

Galen Hadley, Chairperson